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Decision

Matter of: Crown Support Services, Inc.

File: B-284471

Date: April 21, 2000

Jesse W. Rigby, Esq., Clark, Partington, Hart, Larry, Bond, Stackhouse & Stone, for the protester.

Terrence J. Tychan and Michael Colvin, Department of Health and Human Services, for the agency.

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DIGEST

Protest challenging evaluation of protester's proposal for support services contract is denied where evaluation was reasonable and consistent with solicitation's evaluation scheme.

DECISION

Crown Support Services, Inc. (Crown) protests the award of a contract to Raven Services Corporation (Raven) under request for proposals (RFP) No. 273-99-P-0007, issued by the National Institute of Environmental Health Sciences (NIEHS), Department of Health and Human Services, for support services. The protester asserts that the agency unreasonably downgraded its proposal.

We deny the protest.

Issued on April 16, 1999, the RFP solicited proposals for providing support services for the NIEHS at Research Triangle Park, North Carolina. The required services include: (1) mail; (2) messenger; (3) transportation of passengers; (4) copy, binding, and facsimile; (5) moving laboratory/office furniture and equipment; (6) conference room; and (7) maintenance of government vehicles. RFP at C4-14. The RFP contemplated award of a 1-year, fixed-price contract and included options for 4 additional years. RFP at B3, L80.

The RFP stated that the award would be made on the basis of best overall value after evaluation of proposals on technical factors (which encompassed experience and past performance) and cost/price, and indicated that all technical factors combined were significantly more important than cost/price. Within the technical/past performance evaluation factor, the evaluation criteria (and their respective weights) were: plan of operation (40 points), quality assurance and safety plans (20 points), experience of contractor's corporate organization related to technical proficiency/past performance (20 points), and experience of key personnel (20 points). The RFP stated that a cost analysis would be performed and considered as part of the best value analysis. RFP at M91-93.

Twelve offers were received by the June 1 closing date. After evaluation, three offers were determined to be in the competitive range; written negotiations were conducted with each competitive range offeror. Final revised offers were received from the competitive-range offerors and evaluated. Final revised offers were ranked as follows:

Offeror	Technical Score	Total Price
Raven	[deleted]	\$2,271,218.00
Crown	[deleted]	\$(deleted)
Offeror A	[deleted]	\$(deleted)

Agency Report, exh. IV, Tab 4, Source Selection Determination, at 3.

The technical evaluation panel (TEP) recommended award to Raven because of the superior technical merit of its proposal. Agency Report, exh. IV, Tab 7, Final TEP Report, at 8-9. After reviewing the TEP's report and conducting a best buy analysis, the contracting officer determined that Raven's higher technical score more than offset its higher price and that Raven's offer represented the best value. Agency Report, exh. IV, Tab 4, Source Selection Determination, at 1, 5-6. Accordingly, the contract was awarded to Raven on December 17. After a debriefing, Crown filed this protest alleging that the agency unreasonably downgraded its proposal.

In reviewing an agency's evaluation of proposals, our Office will question the agency's evaluation only where it violates a procurement statute or regulation, lacks a reasonable basis, or is inconsistent with the stated evaluation criteria. B. Diaz Sanitation, Inc., B-283827, B-283828, Dec. 27, 1999, 2000 CPD ¶ 4 at 6. We conclude from the record that the protest is without merit.

Crown challenges the fact that the contracting officer considered Crown's intent to pay its employees at the minimum permissible rates in her source selection decision. Protest at 4-5. The agency expressed concern during discussions that Crown's low initial pay rates and lack of pay raises for the option years would adversely affect employee morale and Crown's ability to attract and retain employees. Agency Report, exh. IV, Tab 9, Discussions Letter from Agency to Crown at 2-3 (Sept. 9,

1999). Crown's revised proposal did not propose any wage revisions or offer any plan to allay the agency's concerns. Crown appears to contend that, if the agency believed that the minimum permissible pay rates were too low to attract and retain employees, it was required to so state in the RFP. Protester's Comments at 4. We disagree, because there is no such legal requirement. In any event, Crown was explicitly put on notice of the agency's concern during discussions. We note that Raven's revised proposal included more staff than Crown's revised proposal and included pay raises for all employees in the option years. We believe that the contracting officer reasonably considered the differences in staffing levels and pay scale approach, as well as their potential effect on employee morale, in her best value analysis. Agency Report, exh. IV, Tab 4, Source Selection Determination, at 1-3.

The protester also contends that NIEHS unreasonably downgraded its proposal for lack of corporate experience in conference scheduling and mail/messenger services. Protest at 8-9. Crown lost [deleted] out of a possible 20 points under the corporate experience criterion. Crown states that it is a wholly-owned subsidiary of Crown Management Services, Inc., which has had experience in all of the tasks required under the RFP, and contends that it should have been given credit for the corporate experience of its parent company. Protester's Comments at 6.

The RFP stated that the agency would evaluate the organization's technical experience in providing and managing similar types of services. Offerors were instructed to submit a list and brief descriptions of contracts, similar in nature to the present requirement, performed or completed within the past 3 years. The list of prior contracts was to include, among other things, the contract number, total contract value, description of the requirement, and name and telephone numbers of the contracting officer and the project manager. RFP at L84-85, M92.

In its initial proposal, Crown listed four contracts as prior experience. Agency Report, exh. IV, Tab 2, Crown's Initial Technical Proposal, at 105-08. The TEP downgraded Crown's proposal because (1) [deleted]; (2) [deleted]; and (3) [deleted]. Agency Report, exh. IV, Tab 8, Initial TEP Report, at 4.

During discussions, the agency asked Crown to elaborate on its specific experience with conference room, binding, and mail/messenger services. Agency Report, exh. IV, Tab 9, Discussions Letter from Agency to Crown at 2 (Sept. 9,1999). In response, Crown's revised final offer included a very brief narrative statement about work it did in these areas under several military contracts. Crown's response did not list any references for these contracts. Agency Report, exh. IV, Tab 1, Crown's Revised Final Offer (Responses to Technical Concerns), at 4. While the TEP noted that Crown's revised final offer claimed experience with [deleted], the TEP still downgraded the proposal because [deleted]. Agency Report, exh. IV, Tab 7, Final TEP Report, at 8.

Under the RFP, it was Crown's responsibility to provide descriptions of and references for recent contracts (*i.e.*, within the past 3 years) that were similar to the present requirement. The prior contracts that Crown selected were almost all for laundering services. The TEP did not believe that this prior work adequately demonstrated the organization's technical experience in providing and managing all of the types of services required by the RFP. When, after having been asked for additional past performance information, Crown provided only a brief description of work previously performed by Crown's parent company, neglected to discuss any messenger services experience, and failed to provide any additional references, it was, in our view, reasonable for the TEP to still consider corporate experience to be a weakness of Crown's proposal.¹ Accordingly, we cannot find unreasonable the agency's downgrading of Crown's proposal on corporate experience.

The protester contends that NIEHS unreasonably downgraded its proposal for failing to elaborate on a specific safety plan for NIEHS. Crown contends that its ability to tailor its safety plan to the NIEHS facility was limited because it was not an on-site contractor, and states that it tailored its proposed safety plan to the NIEHS site as much as it could. Crown also argues that it was unreasonable for the agency to downgrade its proposal on this criterion because offerors were not required to submit a final safety plan until 30 days after contract award. Protest at 7-8.

As noted above, quality assurance and safety plans constituted one of the criteria on which proposals were to be evaluated. Although it is true that the RFP required that the winning contractor submit a written plan for complying with the RFP's safety and health provisions within 30 days after contract award, the RFP stated that the agency would review and evaluate each offeror's proposed plan for monitoring techniques and practices to ensure high quality work and the safety of staff in performance of their duties. RFP at H36, M91-92.

The TEP awarded Crown's initial proposal [deleted] of the 20 available points on the evaluation of the quality assurance and safety plan criterion. However, the evaluators criticized Crown's safety plan because: (1) it was too detailed in some areas that were not pertinent to this contract (*i.e.*, transporting chemicals, posting hazard warnings, welding, etc.); and (2) the plan for transporting personnel looked like generic guidelines for military transportation. Agency Report, exh. IV, Tab 8, Initial TEP Report, at 4, 15-17; and attach. B2, Evaluator Scoresheets (Crown) at 2, 5, 8.

¹ Crown's proposal did not show that there would be any meaningful involvement in the performance of this contract by its parent company; therefore, the agency was justified in not giving Crown credit for the experience of its parent company. See Universal Bldg. Maintenance, Inc., B-282456, July 15, 1999, 99-2 CPD ¶ 32 at 6.

During discussions, the agency pointed out that Crown's proposed guidelines for passenger safety looked like generic guidelines associated with military transportation and were not pertinent to this contract and asked Crown to elaborate. Agency Report, exh. IV, Tab 9, Discussions Letter from Agency to Crown at 2 (Sept. 9, 1999). In its revised final offer, Crown did not elaborate on its proposed plan. Rather, Crown responded by stating that: (1) this was only a preliminary safety plan; (2) it intended to tailor the plan to meet specific contract requirements within 30 days after award as allowed by the RFP; and (3) the guidelines for passenger safety were "comprehensive" guidelines that it used on multiple contracts. Agency Report, exh. IV, Tab 1, Crown's Revised Final Offer (Responses to Technical Concerns), at 6.

During discussions, Crown clearly was advised that the agency had concerns that the firm's passenger safety plan was not designed for NIEHS and the tasks that would be required under this contract. Nevertheless, in its final revised offer, Crown simply insisted on its right to wait until 30 days after award to provide a more pertinent plan. In this regard, the contracting officer points out that Crown's proposal provided guidelines in electrical safety for wiring, battery acid accident emergency procedures, and forklift safety operations, none of which are relevant to the work that will be performed under this contract. Contracting Officer's Statement at 4. Because Crown's revised final offer did not elaborate upon or offer any improvements to its proposed safety plan, the TEP reasonably still considered Crown's safety plan to have a weakness and did not raise its score on this criterion.² Agency Report, exh. IV, Tab 7, Final TEP Report, at 7.

Finally, in view of the alleged unreasonable technical evaluation of Crown's proposal, Crown contends that NIEHS did not provide an adequate rationale for accepting Raven's higher priced proposal. Protest at 6. However, as discussed above, the record does not support a finding that the technical evaluation of Crown's proposal was unreasonable or otherwise improper. Therefore, in the absence of any

² Crown also contends that NIEHS incorrectly downgraded its proposal for having four copy room operators in one copy center simultaneously. Despite the deduction, Crown was highly rated on the relevant criterion (receiving [deleted] of 40 possible points), and the [deleted] deduction was attributable to two other perceived weaknesses, not challenged here, as well as the copy room operator issue. Agency Report, exh. IV, Tab 7, Final TEP Report, at 7; and Enclosure 1, at 1. Thus, any impact from the copy room staffing issue was de minimis, and we need not address the issue here.

challenge to the evaluation of Raven's proposal, this contention provides no basis for overturning the agency's selection of Raven's proposal for award. SRS Techs., B-270341.2, Mar. 1, 1996, 96-1 CPD ¶ 120 at 4.

The protest is denied.

Comptroller General
of the United States